

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Investigation of Pacific Gas and Electric Company (U 39 M) to (1) Issue, Sell and Deliver Common Stock and One or More Series of Its First and Refunding Mortgage Bonds, Debentures, Subordinated Deferrable Interest Debentures, Promissory Notes and/or Other Evidences of Indebtedness in Connection with A Confirmed Plan of Reorganization Under Chapter 11 of the Bankruptcy Code, the Total Aggregate Principal Amount of Such Issuances and Guarantees Not to Exceed \$9.5 Billion; (2) Enter into One or More Interest Rate Caps, Collars and Swaps; (3) an Exemption from the Competitive Bidding Rule.

Investigation 02-07-015  
(Filed July 17, 2002)

**RULING SHORTENING TIME FOR RESPONSES TO PETITION FOR MODIFICATION AND OTHER RELATED PROCEDURAL MATTERS**

**Background**

On July 17, 2002, the Commission opened Order Instituting Investigation (I). 02-07-015 for the purposes of authorizing and directing Pacific Gas and Electric Company (PG&E) to issue such preferred stock and long-term debt instruments as deemed appropriate to finance only the Commission's proposed Plan of Reorganization (POR). On November 7, 2002, the Commission granted conditional authority to PG&E to issue up to \$9.5 billion of additional preferred

stock and long-term debt,<sup>1</sup> only to implement the California Public Utilities Commission's and the Official Committee of Unsecured Creditors' First Amended Plan of Reorganization proposed by the Commission and the Official Committee of Unsecured Creditors (Amended Plan) as amended, modified or supplemented from time to time.

On July 25, 2003, PG&E filed a Petition for Modification of D.02-11-030. In its Petition, PG&E requests that the Commission modify D.02-11-030 as soon as possible to authorize PG&E in collaboration with the Energy Division and the Commission's financial advisor, UBS Investment Bank, to enter into forward rate agreements, options, and floors, as well as the previously authorized swaps, caps and collars (collectively, the "interest rate hedges") for debt issued to implement any Bankruptcy Court<sup>2</sup> approved plan of reorganization, immediately upon issuance by the Commission of its decision on this petition.

PG&E points out that three proposed plans of reorganization are pending in PG&E's Chapter 11 case: PG&E's plan of reorganization, the Commission and Official Committee of Unsecured Creditors' plan of reorganization (Commission plan), and the proposed settlement between the Public Utilities Commission and PG&E (the "Proposed SA").

### **Request for Shortened Time**

PG&E asks under Rule 47(f) that the Commission reduce the time for interested parties to respond to the motion from 30 days to 10 days, citing the uncertainty of the financial market's current low interest rates remaining

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<sup>1</sup> Long-term debt is any debt that has a maturity of 12 months or more when issued.

<sup>2</sup> United States Bankruptcy Court for the Northern District of California (Case No. 01-30923 DM.)

available when the time comes to finance whatever POR is authorized by the Bankruptcy Court. PG&E also asks for a waiver, or a reduction to 10 days, for the 30-day public review and comment period on a draft decision as required by Pub. Util. Code § 311(g)(2) and Rule 77.7(g).

Because we cannot be certain how long existing market interest rates will remain available to finance a POR as economically as may be possible now, it is reasonable to grant a portion of the Petition to reduce time to respond to the Petition to no later than 12:00 p.m. (noon), August 8, 2003. We will also grant the request to reduce the public review and comment period to 10 days for the same reason that we reduce the comment period on the petition; the concern that the opportunity for favorable financing could pass before the Commission is able to otherwise act. Parties are asked in this Ruling to indicate whether they will waive the public review and comment period on any draft decision.

### **Directions to Parties**

Parties should address the following in their August 8, 2003 responses to the Petition to Modify D.02-11-030:

1. The merits of granting the regulatory relief sought by PG&E to enter into the interest rate hedges as described in the Petition;
2. Modifications to the described interest rate hedges, including a thorough justification of any modifications;
3. The merits of the ratemaking treatment of the costs of interest rate hedges as described in the Petition;
4. Modifications to the described ratemaking treatment of the costs of interest rate hedges, including a thorough justification of any modifications;
5. Support or opposition for the waiver of time for public comment on the draft decision under Rule 77.7(g); and

6. Any other comments relevant to the specific relief sought by the Petitioner.

### **Electronic Service and Service List**

Electronic Service protocols were adopted in I.02-07-015 and those protocols are still in effect.

Because this financing authority may have significant implications for the final cost of any POR, and to ensure that we reach the widest possible audience, this Ruling is also being served on parties to I.02-04-026,<sup>3</sup> which is the Commission's own investigation into the ratemaking implications for PG&E that will result from the Bankruptcy Court's confirmation of a Plan of Reorganization. Any party to I.02-07-026 who files comments on the Petition will be added to the service list of I.02-07-015.

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<sup>3</sup> Order Instituting Investigation into the ratemaking implications for PG&E pursuant to the Commission's Alternative Plan for Reorganization under Chapter 11 of the Bankruptcy Code for PG&E, in the United States Bankruptcy Court, Northern District of California, San Francisco Division, In re Pacific Gas and Electric Company, Case No. 01-30923 DM. Investigation 02-04-026 (Filed April 22, 2002).

**IT IS RULED** that:

1. Parties shall file and serve responses to the July 25, 2003 Petition to Modify D.02-11-030 no later than 12:00 p.m. (noon) on August 8, 2003.
2. Parties shall specifically address the issues stated in the Directions to Parties herein.

Dated July 30, 2003, at San Francisco, California.

/s/ DOUGLAS M. LONG

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Douglas M. Long  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Shortening Time for Responses to Petition for Modification and Other Related Procedural Matters on all parties of record in this proceeding or their attorneys of record.

Dated July 30, 2003, at San Francisco, California.

/s/ ELIZABETH LEWIS  
Elizabeth Lewis

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.